



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0039]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 13 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision requirement.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2012-0039 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the Federal Register on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief,
Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA,
Department of Transportation, 1200 New Jersey Avenue, S.E., Room W64-224,
Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” FMCSA can renew exemptions at the end of each 2-year period. The 13 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Juan Castanon

Mr. Castanon, age 46, has complete loss of vision in his right eye due to a traumatic injury sustained at age 9. The visual acuity in his left eye is 20/20. Following an examination in 2011, his optometrist noted, “I feel that Mr. Castanon is able to drive a commercial vehicle without glasses safely.” Mr. Castanon reported that he has driven straight trucks for 6 years, accumulating 2,304 miles. He holds a Class D operator’s license from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a Commercial Motor Vehicle (CMV).

Donald F. Erke

Mr. Erke, 70, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an

examination in 2011, his optometrist noted, “It is my medical opinion that Mr. Erke has sufficient vision to perform any and all driving tasks required to operate a commercial vehicle.” Mr. Erke reported that he has driven straight trucks for 17 years, accumulating 1.5 million miles and tractor-trailer combinations for 25 years, accumulating 2.3 million miles. He holds a Class A CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald D. Flanery

Mr. Flanery, 44, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2011, his ophthalmologist noted, “Based upon my findings and medical expertise, I Daniel Ewen, MD hereby certify Ronald Flanery to be visually able to safely operate a commercial motor vehicle.” Mr. Flanery reported that he has driven straight trucks for 15 years, accumulating 465,000 miles and tractor-trailer combinations for 5 years, accumulating 1,250 miles. He holds a Class A CDL from Kentucky. His driving record for the last 3 years shows one crash, for which he was not cited and no convictions for moving violations in a CMV.

Mark G. Kleinheider

Mr. Kleinheider, 48, has a detached retina in his left due to a traumatic injury sustained in 1989. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2011, his ophthalmologist noted, “It is my medical opinion that Mark has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle.” Mr. Kleinheider reported that he has driven straight trucks for 3 years, accumulating 60,000 miles and tractor-trailer combinations for 3 years, accumulating

15,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joseph C. Powell

Mr. Powell, 57, has complete loss of vision in his right due to a traumatic injury sustained 10 years ago. The visual acuity in his left eye is 20/20. Following an examination in 2011, his optometrist noted, "I certify that, in my medical opinion, Mr. Powell has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Powell reported that he has driven straight trucks for 15 years, accumulating 150,000 miles and tractor-trailer combinations for 35 years, accumulating 1.12 million miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 12 mph.

David L. Schachle

Mr. Schachle, 40, has a prosthetic right eye due to a traumatic injury sustained at 8 months old. The best corrected visual acuity in his left eye is 20/20. Mr. Schachle reported that he has driven straight trucks for 4 years, accumulating 120,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a Commercial Motor Vehicle (CMV).

Michael E. See

Mr. See, 55, has complete loss of vision in his right due to a traumatic injury sustained at age 3. The best corrected visual acuity in his left eye is 20/15. Following an examination in 2011, his optometrist noted, "I believe you have sufficient vision to

perform the driving tasks required to operate a commercial vehicle.” Mr. See reported that he has driven straight trucks for 30 years, accumulating 1.2 million miles. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James A. Settlemyre

Mr. Settlemyre, 59, has had esotropia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2011, his optometrist noted, “In my medical opinion, I feel James Settlemyre has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Settlemyre reported that he has driven straight trucks for 8 years, accumulating 1 million miles. He holds a chauffeur’s license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steven K. Simone

Mr. Simone, 61, has had keratoconus in his left eye for 30 years. The best corrected visual acuity in his right eye is 20/40, and in his left eye 20/400. Following an examination in 2011, his optometrist noted, “I feel Steve is sufficient to perform the driving tasks required to operate a commercial vehicle.” Mr. Simone reported that he has driven straight trucks for 42 years, accumulating 3.4 million miles. He holds a Class C operator’s license from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mark J. Sobczyk

Mr. Sobczyk, 25, has had amblyopia in his left eye since childhood. The best

corrected visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2011, his ophthalmologist noted, "I certify that Mark Sobczyk's ocular condition is satisfactory for operating commercial vehicles." Mr. Sobczyk reported that he has driven straight trucks for 5½ years, accumulating 206,000 miles. He holds a Class A CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Richard D. Sparkman

Mr. Sparkman, 62, has complete loss of vision in his right eye due to a traumatic injury sustained as a child. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2011, his ophthalmologist noted, "Based on the above information, I believe the patient has sufficient vision to perform the driving tasks required by his current commercial vehicle." Mr. Sparkman reported that he has driven straight trucks for 10 years, accumulating 520,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joshua A. Wheaton

Mr. Wheaton, 30, has a detached retina in his left eye due to a traumatic injury sustained in 1997. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2011, his optometrist noted, "I feel that Joshua has more than adequate vision to perform any driving tasks required to operate a commercial vehicle." Mr. Wheaton reported that he has driven straight trucks for 5 years, accumulating 225,000 miles. He holds a Class C operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no

convictions for moving violations in a CMV.

John K. Wright

Mr. Wright, 47, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, “This meets the vision requirement to perform the driving tasks required to operate a commercial vehicle.” Mr. Wright reported that he has driven straight trucks for 3½ years, accumulating 105,000 miles and tractor-trailer combinations for 6 months, accumulating 30,000 miles. He holds a Class A CDL from Montana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business [Insert date 30 days after date of publication in the FEDERAL REGISTER]. Comments will be available for examination in the docket at the location listed under the **ADDRESSES**

section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: December 28, 2012

Larry W. Minor
Associate Administrator for Policy

[FR Doc. 2013-00229 Filed 01/08/2013 at 8:45 am; Publication Date: 01/09/2013]